

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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BRICKLAYERS INSURANCE AND WELFARE
FUND, BRICKLAYERS PENSION FUND,
BRICKLAYERS SUPPLEMENTAL ANNUITY
FUND, BRICKLAYERS AND TROWEL TRADES
INTERNATIONAL PENSION FUND, NEW YORK
CITY AND LONG ISLAND JOINT APPRENTICESHIP
AND TRAINING FUND, INTERNATIONAL MASONRY
INSTITUTE, and JACK ARGILA, in his fiduciary
capacity as Administrator and Chairman of Trustees,
BRICKLAYERS LOCAL 1, INTERNATIONAL
UNION OF BRICKLAYERS AND ALLIED CRAFT
WORKERS, and BRICKLAYERS LABOR
MANAGEMENT COMMITTEE,

Case No. 23-CV-5572
(BMC)

ANSWER

Plaintiffs,

-against-

GRAVITY CONSTRUCTION CORP., NAVDEEP
SINGH, J & N CONSTRUCTION GROUP CORP.,
UTB-UNITED TECHNOLOGY, INC.,
MONPAT CONSTRUCTION, INC.,
HUDSON INSURANCE COMPANY,
ZURICH AMERICAN INSURANCE COMPANY,
QBE INSURANCE CORPORATION, and
ATLANTIC SPECIALTY INSURANCE COMPANY,

Defendants,

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Defendant, Atlantic Specialty Insurance Company (ASIC), serves this Answer (the Answer) in response to the Amended Complaint (the Amended Complaint) of plaintiffs, Bricklayers Insurance and Welfare Fund, Bricklayers Pension Fund, Bricklayers Supplemental Annuity Fund, Bricklayers and Trowel Trades International Pension Fund, New York City and Long Island Joint Apprenticeship and Training Fund, International Masonry Institute, and Jack Argila, in his fiduciary capacity as Administrator and Chairman of Trustees, Bricklayers Local 1, International Union of

Bricklayers and Allied Craft Workers, and Bricklayers Labor Management Committee (collectively, Plaintiffs).

JURISDICTION AND VENUE

1. Paragraph 1 of the Amended Complaint states a legal conclusion to which no response is required. To the extent a response is required, ASIC denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 1 of the Amended Complaint.

2. Paragraph 2 of the Amended Complaint states a legal conclusion to which no response is required. To the extent a response is required, ASIC denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 2 of the Amended Complaint.

3. Paragraph 3 of the Amended Complaint states a legal conclusion to which no response is required. To the extent a response is required, ASIC denies the allegations and conclusions of law in Paragraph 3 of the Amended Complaint and refers all questions of law to this Honorable Court.

4. ASIC denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 4 of the Amended Complaint.

PARTIES

5. ASIC denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 5 of the Amended Complaint.

6. ASIC denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 6 of the Amended Complaint.

7. ASIC denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 7 of the Amended Complaint.

8. ASIC denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 8 of the Amended Complaint.

9. ASIC denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 9 of the Amended Complaint.

10. ASIC denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 10 of the Amended Complaint.

11. ASIC denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 11 of the Amended Complaint.

12. ASIC denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 12 of the Amended Complaint.

13. ASIC denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 13 of the Amended Complaint.

14. ASIC denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 14 of the Amended Complaint.

15. ASIC denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 15 of the Amended Complaint.

16. ASIC denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 16 of the Amended Complaint.

17. ASIC denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 17 of the Amended Complaint.

18. ASIC denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 18 of the Amended Complaint.

19. ASIC admits the allegations in Paragraph 19 of the Amended Complaint.

BACKGROUND

20. ASIC denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 20 of the Amended Complaint.

21. ASIC denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 21 of the Amended Complaint.

22. ASIC denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 22 of the Amended Complaint.

23. ASIC denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 23 of the Amended Complaint.

24. ASIC denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 24 of the Amended Complaint.

FIRST CAUSE OF ACTION

25. In response to Paragraph 25 of the Amended Complaint, ASIC repeats each of its responses in Paragraphs 1 through 24 of this Answer.

26. ASIC denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 26 of the Amended Complaint.

27. ASIC denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 27 of the Amended Complaint.

28. ASIC denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 28 of the Amended Complaint.

SECOND CAUSE OF ACTION

29. In response to Paragraph 29 of the Amended Complaint, ASIC repeats each of its responses in Paragraphs 1 through 28 of this Answer.

30. ASIC denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 30 of the Amended Complaint.

31. ASIC denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 31 of the Amended Complaint.

32. ASIC denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 32 of the Amended Complaint.

THIRD CAUSE OF ACTION

33. In response to Paragraph 33 of the Amended Complaint, ASIC repeats each of its responses in Paragraphs 1 through 32 of this Answer.

34. ASIC denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 34 of the Amended Complaint.

35. ASIC denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 35 of the Amended Complaint.

36. ASIC denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 36 of the Amended Complaint.

37. ASIC denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 37 of the Amended Complaint.

38. ASIC denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 38 of the Amended Complaint.

39. ASIC denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 39 of the Amended Complaint.

40. ASIC denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 40 of the Amended Complaint.

41. ASIC denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 41 of the Amended Complaint.

42. In response to Paragraph 42 of the Amended Complaint, ASIC repeats each of its responses in Paragraphs 1 through 41 of this Answer.

43. ASIC denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 43 of the Amended Complaint.

44. ASIC denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 44 of the Amended Complaint.

45. ASIC denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 45 of the Amended Complaint.

46. ASIC denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 46 of the Amended Complaint.

47. In response to Paragraph 47 of the Amended Complaint, ASIC repeats each of its responses in Paragraphs 1 through 46 of this Answer.

48. ASIC denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 48 of the Amended Complaint.

49. ASIC denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 49 of the Amended Complaint.

50. ASIC denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 50 of the Amended Complaint.

51. ASIC denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 51 of the Amended Complaint.

52. In response to Paragraph 52 of the Amended Complaint, ASIC repeats each of its responses in Paragraphs 1 through 51 of this Answer.

53. ASIC denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 53 of the Amended Complaint.

54. ASIC denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 54 of the Amended Complaint.

55. ASIC denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 55 of the Amended Complaint.

56. ASIC denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 56 of the Amended Complaint.

57. In response to Paragraph 57 of the Amended Complaint, ASIC repeats each of its responses in Paragraphs 1 through 56 of this Answer.

58. ASIC denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 58 of the Amended Complaint.

59. ASIC denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 59 of the Amended Complaint.

60. ASIC denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 60 of the Amended Complaint.

61. ASIC denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 61 of the Amended Complaint.

FOURTH CAUSE OF ACTION

62. In response to Paragraph 62 of the Amended Complaint, ASIC repeats each of its responses in Paragraphs 1 through 61 of this Answer.

63. ASIC denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 63 of the Amended Complaint.

64. ASIC denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 64 of the Amended Complaint.

65. ASIC denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 65 of the Amended Complaint.

66. ASIC denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 66 of the Amended Complaint.

67. ASIC denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 67 of the Amended Complaint.

FIFTH CAUSE OF ACTION

68. In response to Paragraph 68 of the Amended Complaint, ASIC repeats each of its responses in Paragraphs 1 through 67 of this Answer.

69. ASIC denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 69 of the Amended Complaint.

70. ASIC denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 70 of the Amended Complaint.

71. ASIC denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 71 of the Amended Complaint.

72. ASIC denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 72 of the Amended Complaint.

73. ASIC admits the allegations in Paragraph 73 of the Amended Complaint.

74. ASIC denies the allegations in Paragraph 74 of the Amended Complaint, except admits to the receipt of Plaintiffs' notice of claim and that ASIC issued writing(s) to Plaintiffs seeking information to investigate and evaluate Plaintiffs' claim.

75. ASIC denies the allegations and conclusions of law in Paragraph 75 of the Amended Complaint and respectfully refers the Court to the labor and material payment bond (the Bond) issued by ASIC, as surety, on behalf of defendant, Monpat Construction, Inc., as principal (Monpat).

76. ASIC denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 76 of the Amended Complaint.

77. ASIC denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 77 of the Amended Complaint.

78. ASIC denies the allegations in Paragraph 78 of the Amended Complaint.

79. ASIC denies the allegations and conclusions of law in Paragraph 79 of the Amended Complaint.

SIXTH CAUSE OF ACTION

80. In response to Paragraph 80 of the Amended Complaint, ASIC repeats each of its responses in Paragraphs 1 through 79 of this Answer.

81. Paragraph 81 of the Amended Complaint references numbered paragraphs not previously designated nor setting forth allegations. Nonetheless, in response to Paragraph 81 of the Amended Complaint, ASIC repeats each of its responses in Paragraphs 1 through 80 of this Answer. To the extent Paragraph 81 of the Amended Complaint asserts allegations against ASIC, they are denied.

82. ASIC denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 82 of the Amended Complaint.

83. ASIC denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 83 of the Amended Complaint.

84. ASIC denies knowledge or information sufficient to form a belief as to the truth of the allegations and legal conclusions in Paragraph 84 of the Amended Complaint.

85. ASIC denies knowledge or information sufficient to form a belief as to the truth of the allegations and legal conclusions in Paragraph 85 of the Amended Complaint.

SEVENTH CAUSE OF ACTION

86. In response to Paragraph 86 of the Amended Complaint, ASIC repeats each of its responses in Paragraphs 1 through 85 of this Answer.

87. ASIC denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 87 of the Amended Complaint.

88. ASIC denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 88 of the Amended Complaint.

89. ASIC denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 89 of the Amended Complaint.

90. ASIC denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 90 of the Amended Complaint.

91. ASIC denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 91 of the Amended Complaint.

92. ASIC denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 92 of the Amended Complaint.

93. ASIC denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 93 of the Amended Complaint.

FIRST AFFIRMATIVE DEFENSE

94. The Amended Complaint fails to state a cause of action against ASIC upon which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

95. Plaintiffs' claims are barred, in whole or in part, by Plaintiffs' failure to comply with common law and/or statutory conditions precedent to bringing its claim under the Bond.

THIRD AFFIRMATIVE DEFENSE

96. Upon information and belief, Plaintiffs have failed to satisfy conditions precedent to recovery under the terms of the Bond.

FOURTH AFFIRMATIVE DEFENSE

97. ASIC's liability, if any, under the Bond is limited by their terms, and ASIC has no liability under the Bond for, *inter alia*, interest, liquidated damages, penalties, attorneys' fees and costs of suit sought by Plaintiffs.

FIFTH AFFIRMATIVE DEFENSE

98. Upon information and belief, the Court lacks jurisdiction over the subject matter of the cause of action asserted against ASIC in the Amended Complaint.

SIXTH AFFIRMATIVE DEFENSE

99. Plaintiffs' claims against ASIC are subject to the defenses of the Bond's principal, Monpat, and ASIC asserts each one of these defenses by reference and asserts the benefit of same as defenses barring or limiting Plaintiffs' claims against the Bond.

SEVENTH AFFIRMATIVE DEFENSE

100. Plaintiffs' claims are barred, in whole or in part, by the applicable statute of limitations in New York State Finance Law §137 and/or any other applicable statute and/or limitation period in the Bond.

EIGHTH AFFIRMATIVE DEFENSE

101. ASIC reserves its right to amend its Answer to assert additional affirmative defenses on the completion of its investigation and discovery herein.

WHEREFORE, defendant Atlantic Specialty Insurance Company, respectfully requests that Plaintiffs' Amended Complaint be dismissed as against ASIC, together with reasonable attorneys' fees and the costs and disbursements of this action, together with such other and further relief as this Court finds just and proper.

Dated: East Meadow, New York
April 17, 2024

ATLANTIC SPECIALTY
INSURANCE COMPANY

By: Seth D. Rosmarin
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SR-7760

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TO:

All Parties (via ECF)